

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ACTELION PHARMACEUTICALS LTD and
NIPPON SHINYAKU CO., LTD.,

Plaintiffs,

v.

MSN PHARMACEUTICALS INC.,
MSN LABORATORIES PRIVATE LIMITED,
ALEMBIC PHARMACEUTICALS LIMITED,
ALEMBIC PHARMACEUTICALS, INC.,
VGYAAN PHARMACEUTICALS LLC,
ZYDUS WORLDWIDE DMCC and
ZYDUS PHARMACEUTICALS (USA) INC.,

Defendants.

**Civil Action No. 1:20-03859
(RMB) (KMW)**

STIPULATION OF DISMISSAL AND ORDER

Plaintiffs Actelion Pharmaceuticals Ltd and Nippon Shinyaku Co., Ltd. (collectively, “Plaintiffs”) and Defendants MSN Laboratories Private Limited and MSN Pharmaceuticals Inc. (collectively, “MSN” or “Defendants”) by their undersigned counsel, stipulate and agree, subject to the approval of the Court, as follows:

WHEREAS, MSN has filed Abbreviated New Drug Application (“ANDA”) No. 214367 with the United States Food and Drug Administration seeking approval to make and sell selexipag tablets, 200 mcg, 400 mcg, 600 mcg, 800 mcg, 1000 mcg, 1200 mcg, 1400 mcg and 1600 mcg (“MSN’s ANDA products”) prior to the expiration of U.S. Patent Nos. 8,791,122 (“the ’122 patent”) and 9,284,280 (“the ’280 patent”); and

WHEREAS, on April 9, 2020, Plaintiffs filed suit against MSN alleging that submission of ANDA No. 214367 and/or the sale and use of MSN’s ANDA products constitute

and/or induce or contribute to acts of infringement under 35 U.S.C. §§ 271 (a), (b), (c), and (e)(2);

NOW THEREFORE, the parties hereby stipulate and agree as follows:

1. Pursuant to Rule 41(a) and 41(c) of the Federal Rules of Civil Procedure, all claims, counterclaims, and defenses as between Plaintiffs and MSN concerning the '122 and '280 patents are dismissed without prejudice, and each party shall bear its own costs and attorney fees with respect to the '122 and '280 patents;

2. The case caption should be amended to remove MSN as a named party to Civil Action No. 1:20-cv-03859 (RMB) (KMW).

STIPULATED AND AGREED TO BY:

s/ Keith J. Miller

Keith J. Miller
ROBINSON MILLER LLC
Ironside Newark
110 Edison Place, Suite 302
Newark, NJ 07102
(973) 690-5400
KMiller@rwmlegal.com

*Attorneys for Plaintiffs
Actelion Pharmaceuticals Ltd
and Nippon Shinyaku Co., Ltd.*

Of Counsel:

Bruce M. Wexler
Preston K. Ratliff II
Aaron P. Selikson
PAUL HASTINGS LLP
200 Park Avenue
New York, NY 10166
(212) 318-6000

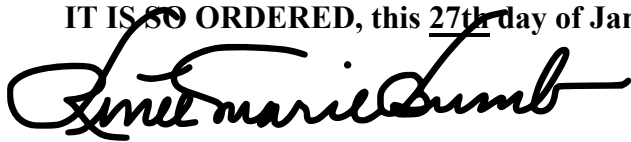
*Attorneys for Plaintiffs
Actelion Pharmaceuticals Ltd
and Nippon Shinyaku Co., Ltd.*

s/ Anandita Vyakarnam

Andrew J. Miller
Anandita Vyakarnam
WINDELS MARX LANE & MITTENDORF, LLP
One Giralda Farms
Madison, NJ 07940
(973) 966-3200
amiller@windelsmarx.com
avyakarnam@windelsmarx.com

*Attorneys for Defendants MSN
Pharmaceuticals Inc., MSN Laboratories
Private Limited*

IT IS ~~SO~~ ORDERED, this 27th day of January, 2021



The Honorable Renée Marie Bumb
United States District Judge